IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 6628 of 1995

Between:

Sanjay Kadam, Managing Director, Spav Fishery Pvt. Ltd.,
A/102, Shital Apartments, Bammanwada, Vile Parle (East),
Bombay-99.

..... PETITIONER

AND

1 Visakhapatnam Port Trust, rep. by its Chairman,
Visakhapatnam.
2 M.S.T.C. Limited, rep. by its Manager, Subbaramireddy Complex,

30-15-76, Daba Gardens, Visakhapatnam-20.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction, declaring the proposed auction of the trawler called "Sagar Mexicana II" by the 2nd Respondent on behalf of the 1st Respondent on 14-4-1995 or on any other earlier date, as illegal, void, *ab initio* and violative of principles of natural justice and Article 19 of the Constitution of India and other provisions of the Constitution of India.

Counsel for the Petitioner: MR. S.SRIRAMACHANDRA MURTY

Counsel for Respondent No.1: MR. K.SRINIVASAMURTHY

Counsel for Respondent No.2: None appeared

The Court made the following:

ORDER:

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This writ petition is filed seeking a Writ of Mandamus, to declare the proposed auction of the trawler called “Sagar Mexicana II” by the 2nd respondent on behalf of

the first respondent, as illegal and void.

The petitioner has admittedly filed a suit in O.S.NO.82 of 1993 on the file of the Principal Subordinate Judge at Visakhapatnam for a mandatory injunction directing the defendant therein to sign all the necessary applications and documents for making the trawler sea-worthy inclusive of the relief for clearing of all the arrears and amounts due to the first respondent. In that view of the matter, the petitioner simultaneously cannot file a writ petition questioning the auction, which was proposed for not paying the arrears to the first respondent.

In that view of the matter, I do not find any merit in this writ petition and the same is dismissed. No order as to costs.

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R.SUBHASH REDDY, J

08th February, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Chairman, Visakhapatnam Port Trust, Visakhapatnam.

2. Two CD copies.